

- I. Defaults in Payment of Access and Universal Service Support Have Potentially Serious Consequences for Rural LECs
  - A. Access Revenues and Universal Service Support are major components of cost recovery for rural LECs. The combination of the thirty day billing cycles, thirty day disconnect periods, slow or skipped payments as IXC's become financially stressed, and the automatic stay in a bankruptcy proceeding exposes Rural LECs to loss of at least three months' revenue.
  - B. Rural LECs should not be precluded from adopting commercially reasonable and widely used measures to protect against losses from non payment.
  - C. Proposals for tariff modifications are intended to minimize financial risks. Rural LECs are not significant service providers to urban CLECs. These proposals have no anti-competitive purpose.
- II. Pre-Bankruptcy Petition Protections
  - A. Rural LECs should be allowed to revise their tariffs to enhance their ability to require deposits, to disconnect for non-payment, or both with respect to carriers whose financial situation indicates a serious risk of non-payment.
    - 1. Define objective circumstances under which deposit may be required to include public data of generally recognized reliability which raises reasonable doubt as to customer's continued creditworthiness.
    - 2. Allow shortened billing intervals and reduce period of time for disconnection to less than 30 days.
    - 3. Allow LECs to require prepayment of switched access services.
    - 4. Allow LECs to require IXC's to shift account responsibility to willing end-user customers.

- B. Tariffs should allow Rural LEC to apply deposits to amounts in default and to require replenishment of the deposit. (See, e.g., attached Smart City tariff)
- C. Tariffs should state that customers take service recognizing that LEC is a ACritical Vendor@ within the meaning of the bankruptcy laws.
- D. Tariff should allow LECs to offset amounts due under their tariffs with amounts they owe IXCs.

### III. Post Petition Protections

- A. Tariffs allowing for prompt disconnection are needed to minimize damage. Treatment of insolvent and poor credit risk IXCs should be generally consistent both before and after an IXC files for bankruptcy protection.
- B. Tariffs allowing for a deposit demand for a customer filing a bankruptcy petition should be permitted (recognizing that enforcement of the demand would be subject to the orders of the court).
- C. Tariffs recognizing that a newly reorganized IXC, whether considered a new entity or a continuation of the pre-petition customer, does not have established credit.

### IV. The Commission Should Establish Clear Disconnection Procedures Which Specify Responsibilities For End-User Customer Notification.

- A. End-users have a legitimate interest in sufficient notice to evaluate alternative IXCs before their existing preferred carrier is disconnected. Some Apublic-interest@ end users, such as public safety agencies and hospitals may be exposed to more than just inconvenience if they do not find out their IXC is disconnected until they try to dial a long distance call.
- B. Section 214 and the associated Part 63 Rules require an IXC, and not the LEC, to give notice to end users of discontinuance of service in situations where the IXC has been notified it will be disconnected for non-payment. Rural LECs should not be faced with liability claims growing out of either their provision of notice to end-users, or their lack of notice to end-users.
- C. On the other hand, end users may not want to change carriers, when there is a possibility the IXC may bring its account current. End-users also do not want to pay multiple PIC-change charges.

- D. IXCs would prefer not to have their financial troubles made worse by a flight of customers resulting from disconnect notices.

V. Application to Pending Issues

- A. The public, the industry and the Commission are best served by resolving the issues in the context of Docket No. 02-202, rather than in multiple, potentially overlapping tariff investigations.
- B. The recent NECA tariff filing represents a sound approach to the problem, although it does not address all of the issues raised above.
- C. The Commission should develop and make public firm plans to minimize defaults in contributions to the Universal Service Fund in order to protect both the fund and other contributors..